

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF ALABAMA  
NORTHERN DIVISION

EMPLOYERS MUTUAL CASUALTY	)	
COMPANY,	)	
	)	
Plaintiff,	)	CIVIL ACTION NO:
	)	2:05 -CV-01108-MEF
	)	
V.	)	
	)	
ARNBERG & ALLEN CONSTRUCTION,	)	
L.L.C.; STEPHEN D. ARNBERG,	)	
JIM ALLEN, MICHAEL O. LUNSFORD	)	
and DEBRA O. LUNSFORD.	)	
	)	
Defendants.	)	

**NOTICE OF FILING AFFIDAVIT OF RAYFORD F. SMITH**  
**IN SUPPORT OF EMPLOYERS MUTUAL CASUALTY COMPANY'S**  
**MOTION FOR FINAL SUMMARY JUDGMENT**

COMES NOW Plaintiff, Employers Mutual Casualty Company ("EMCC"), and hereby gives notice of and files the attached affidavit of Rayford F. Smith in support of EMCC's motion for summary judgment.

Respectfully submitted,

/s/James A. Kee, Jr. ASB-4314-e68j  
/s/Cynthia A. Martin ASB-2044-i49c  
Attorneys for Plaintiff Employers  
Mutual Casualty Company

OF COUNSEL:  
KEE & SELBY, L.L.P.  
1900 International Park Drive  
Suite 220  
Birmingham, Alabama 35243  
(205)968-9900 (phone)  
(205)968-9909 (fax)

**CERTIFICATE OF SERVICE**

I do hereby certify that on October 25, 2006, I electronically filed the foregoing with the Clerk of Court using the CM/ECF system, which will send notification of such filing to the following:

Richard H. Allen  
CAPELL HOWARD, PC  
P.O. Box 2069  
Montgomery, Alabama 36102-2069

Robert Jackson Russell, Jr  
PARNELL & CRUM, PA  
P.O. Box 2189  
Montgomery, Alabama 36102-2189

/s/Cynthia A. Martin ASB-2044-i49c

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and DEBRA O. LUNSFORD.	)	
	)	
Defendants.	)	

**AFFIDAVIT OF RAYFORD F. SMITH**

1. My name is Rayford F. Smith. I am over the age of 21 and competent to testify. I have personal knowledge of the facts stated in this affidavit.

2. I am the owner/operator of SSL&J Building LLC. I specialize in the inspection of construction defects to determine the cause of any alleged construction defects. My curriculum vitae is attached to this affidavit as Exhibit A.

3. I have inspected hundreds of homes for alleged construction defects on behalf of individual home owners and/or construction contractors.


4. I have been duly qualified as an expert in the State of Alabama.

5. On August 30, 2006 I inspected the Lunsford's home and I have formed an opinion as to the cause of the problems asserted in their complaint.

6. In my opinion, the damage to the Lunsford's home arises out of, was caused by, results from, was aggravated by or was related to settling.

7. I certify the foregoing statement made by me is true.


Dated this the 25<sup>th</sup> day of October, 2006.

  
Rayford F. Smith

STATE OF ALABAMA )  
Jefferson COUNTY )

Before me, the undersigned, a Notary Public in and for said County, in said State, personally appear Rayford F. Smith, who having been first duly sworn, deposes and says that the above and foregoing is based on his personal knowledge and is true and correct to the best of his knowledge, information, and belief.

Given under my hand, this 25<sup>th</sup> day of October, 2006.

  
NOTARY PUBLIC  
My Commission Expires: 12-16-08

# **Exhibit**

# **A**

Rayford F. Smith  
2671 Swiss Lane  
Hoover, AL 35226  
(205) 823-4511

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Rayford F. Smith's career in the construction industry has spanned over forty illustrious years. His rise through the ranks from the position of laborer to that of vice president signal the leadership, expertise, and experience that has developed during his career. He has established himself as a prominent member of the construction industry, as his career has been highlighted with awards and service to the industry throughout the Southeast.

Rayford was born in Laurel, Mississippi in 1937. His career began in 1957 with Brice Building Company in Laurel as an apprentice carpenter. During the next twenty-seven years with Brice, he was awarded with promotions such as Carpenter Foreman, Supervisor, Job Superintendent, General Superintendent, and Vice President of Operations. His supervisory roles covered numerous multi-million dollar projects throughout Birmingham and the Southeast.

Mr. Smith also demonstrated his leadership and knowledge while sitting on several key committees within the industry. These include Health and Welfare Board, Joint Committee between Labor and Management, and Chairman of the Apprentice Carpenter Committee. In further serving the industry, Mr. Smith was an active instructor for the Apprentice Carpenter program, which was the same program that launched his career with Brice. Mr. Smith's knowledge, expertise, and ingenuity for problem solving earned him the 1981 Marksman Award presented annually by *Engineering News-Record*.

Mr. Smith's success within the Brice organization led him to Dunn Construction Company. In May of 1984, he joined Dunn as Vice President, Manager of Operations. This position involved numerous aspects of all ongoing projects throughout the Southeastern states, including: company Safety Director and safety inspection on-site, bidding process, company representative in legal matters concerning projects

addition, he holds a certificate in Advanced Supervision of Asbestos Abatement. These examples of Mr. Smith's capabilities and advisory/instructing duties only continue to prove the solid service and experience that he brings to the construction industry as a whole.

In August of 1994 Mr. Smith relied on his years of experience to form a partnership, Stan-Ray, Inc. The operations of Stan-Ray, Inc. consisted of smaller scale residential and commercial construction and inspections, as well as a specialized coating process for metal buildings to prevent water leakage. The company grew and in early 1997, Rayford changed the company name to SSL & J Building, L.L.C. With increasing problems and concerns involving EIFS clad structures, operations were expanded to include third party EIFS inspections and consulting. Over the years the demand for his services has been so high in the construction defects, EIFS, inspections and construction consulting areas, these have become the main operations of SSL&J Building, L.L.C.

In order to serve his customers to the best of his ability, Rayford relied on his experience, dating back to 1976, in dealing with commercial buildings clad with EIFS and other cladding. He earned his certification as a third party EIFS inspector in 1997. He is a licensed General Contractor in the State of Alabama and is also a member of EIMA (EIFS Industry Members Association), the Home Builders Association, and The Better Business Bureau. With promotions from apprentice to vice president and projects ranging from thousands of dollars to multi-millions, Rayford F. Smith has a wealth of knowledge, capability, leadership, and hands-on experience which gives him the expertise needed in the construction industry today.

Attached is a chronological fact sheet recording Mr. Smith's career in the industry. Dates, job titles, and major projects are listed as added reference to his qualifications in the construction field.

## Rayford Smith Fact Sheet

Date	Position	Major Projects or Major Roles
<b>Brice Building Company</b>		
1957	Laborer	Various jobs in MS
1958	Apprentice Carpenter	Masonite Plant; Laurel, MS Crossett Paper Mills; Crossett, AR
1960	Carpenter Forman	Numerous jobs in Birmingham, AL
1962- 1977	Job Superintendent	Mack Truck Service Bldg.; B'ham, AL Birmingham Realty Warehouse Regional Plant and Office of the Mason Corporation; Homewood, AL Merrick Manor Home; Lexington, KY South Central Bell additions; AL and MS Buffalo Rock/Pepsi Cola Bottling Plant; Homewood, AL Jackson Mall; Jackson, MS (\$9 million project) B.J.C.C. Concert Hall and Theater (\$18 million project) Greyhound Bus Terminal; Atlanta, GA
1972- 1980	Member Member Chairman Instructor	Health and Welfare Board Joint Committee on Management and Labor Apprentice Carpenter Program Apprentice Carpenter Program
1977- 1984	General Superintendent/ VP of Operations	Covered all operations in AL, GA, FL, MS and TX
1981	Award	Received Marksman Award by <i>Engineering News-Record</i>
<b>Dunn Construction Company</b>		
1984- 1994	VP/Operations Manager	Responsible for all phases of all projects in the region
	Projects	Numerous throughout the Southeast, including:  B.J.C.C. additions Exhibition Hall Sheraton Hotel
	Job Roles	Safety Officer/ Director Safety Inspection Bidding All project problem solving Legal company rep/coordinating E.E.O.C. Director Mentor for B.C.I.A.
	Member Instructor Certified	Southern Building Code Congress O.S.H.A. for construction safety Advanced Supervision of Asbestos Abatement



## Fact Sheet Continued

Date	Position	Major Projects or Major Roles
<hr/>		
	Stan-Ray, Inc.	
1994-1996	Owner/Operator	Specializing in smaller scale construction projects throughout the Southeast
SSL&J Building, L.L.C.		
1997-Present	Owner/Operator	Specializing in construction defect consulting, third party EIFS inspections and consulting, water intrusion in buildings, and smaller scale construction projects, estimating cost for repairs on existing buildings or new construction.
	Member	Better Business Bureau
	Member	Home Builders Association
	Member	EIMA
	Member	Exterior Design Institute
	Certified	Third Party EIFS Inspector AL 02
	Certified	State of Alabama EIFS Inspector. License No. EIFS -0637
	Licensed	General Contractor in State of Alabama. License No. 40243